

## Federal Energy Regulatory Commission

## § 3b.225

the initial determination and will conduct a review independent of the initial determination.

### **§ 3b.225 Written consent for disclosure.**

(a) The Commission will not disclose any record which is contained in a system of records by any means of communication to any person, or to any other agency, unless it has the written request by, or the prior written consent of, the individual to whom the record pertains and under whose individual name, or some other identifying particular, the record is filed. The written request or consent should include, at a minimum, the general purposes for or the types of recipients to whom disclosure may be made. The fact that an individual is informed of the purposes for which information will be used when information is collected pursuant to § 3b.202(b)(2) will not constitute consent.

(b) A written request or consent is not required if the disclosure is:

(1) To those officers and employees of the Commission who have a need for the record in the performance of their duties;

(2) Required under the provisions of the Freedom of Information Act, 5 U.S.C. 552, as amended;

(3) For a routine use as defined in § 3b.2(g) of this part and as described in the public notice for each system of records;

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13 of the United States Code;

(5) To a recipient who has provided the appropriate system manager specified for each system of records with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable. The written statement of assurance should include at a minimum:

(i) A statement of the purpose for requesting the record; and

(ii) Certification that the record will only be used for statistical purposes.

In addition to stripping personally identifying information from records

released for statistical purposes, the system manager will ensure that the identity of the individual cannot reasonably be deduced or determined by combining various statistical records, or by reference to public records or other available sources of information;

(6) To the National Archives of the United States, pursuant to 44 U.S.C. 2103, as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for the evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality, or his delegated official, has made a written request to the appropriate system manager specifying the particular portion of the record desired and the law enforcement activity for which the record is being sought;

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual (not necessarily the individual to whom the record pertains), if, upon disclosure, notification of such is sent to the last known address of the individual to whom the record pertains;

(9) To either House of Congress, or to any committee or subcommittee thereof, on a matter within its jurisdiction;

(10) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(11) Pursuant to the order of a court of competent jurisdiction.

(c) When a record is disclosed under compulsory legal process and such process becomes a matter of public record, the system manager will make reasonable efforts to notify the individual to whom the record pertains. A notice will be sent to the individual's last known address noted in the Commission's files.

(d) The appropriate system manager shall notify all prior recipients of

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records, disclosure to whom an accounting was made pursuant to § 3b.226, of any amendments made to the records, including corrections, amendments and notations of dispute made pursuant to §§ 3b.224(c)(1) and 3b.224(e)(1) and (2)(v), within ten days of receipt of the corrected information or notation of dispute (excluding Saturdays, Sundays, and legal public holidays), except under unusual circumstances [see circumstances described in § 3b.220(d)].

(e) The content of the records disclosed under this section shall be maintained pursuant to the standards established in § 3b.201(c).

### **§ 3b.226 Accounting of disclosures.**

(a) The appropriate system manager specified for each system of records will keep an accurate written account of all disclosures of records made to any person or to any other agency with the written consent or at the written request of the individual to whom the record pertains and pursuant to § 3b.225(b)(3) through (11). The account will include the following information:

(1) The date, nature, and purpose of each disclosure;

(2) The name and address of the person or agency to whom the disclosure is made; and

(3) A reference to the justification or basis upon which the release was made, including reference to any written document required as when records are released for statistical or law enforcement purposes pursuant to § 3b.225(b)(5) and (7).

(b) Each system manager will retain the accounting made under paragraph (a) of this section for at least five years from the date of disclosure for which the accounting is made, or the life of the record, whichever is longer.

(c) Except for disclosures made for law enforcement purposes pursuant to § 3b.225(b)(7), and unless the system of records has been exempted from this provision pursuant to subpart D of this part, each system manager will make the accounting made under paragraph (a) of this section available to the individual named in the record at his written request.

(d) The accounting of disclosures is not a system of records under the defi-

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nition in § 3b.2(e) and no accounting will be maintained for disclosure of the accounting of disclosures.

### **§ 3b.227 Mailing lists.**

An individual's name and address maintained by the Commission will not be sold or rented for commercial or other solicitation purposes not related to the purposes for which the information was collected, unless such sale or rental is specifically authorized by law. This provision shall not be construed to require the withholding of names or addresses otherwise permitted to be made public, as pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended.

## **Subpart D—Rules for Exemptions**

### **§ 3b.250 Specific exemptions.**

Any system of records maintained by the Commission may be exempt from certain provisions of the Privacy Act of 1974, and the appropriate sections of this part promulgated pursuant thereto, if the following requirements are met:

(a) The system of records falls within one or more of the following categories:

(1) Records subject to the provisions of 5 U.S.C. 552(b)(1) as classified material;

(2) Investigatory material compiled for law enforcement purposes [except to the extent that the system is more broadly exempt under 5 U.S.C. 552a(j)(2) covering records maintained by an agency whose principal function pertains to the enforcement of criminal laws] provided, however, that if such record is used as a basis for denying an individual any right, privilege, or benefit to which the individual would be entitled in the absence of that record, the individual must be granted access to that record except to the extent that access would reveal the identity of a confidential source who furnished the information to the Government under an express promise that his identity would be held in confidence, or, prior to September 27, 1975, under an implied promise that his identity would be held in confidence;

(3) Records maintained to provide protective services to the President of